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Page 10 of 13**Section IV:****AMENDMENT UNDER 37 CFR §1.121****REMARKS****Summary of Telephone Interview**

On Sept. 10, 2004, Examiner Truong and applicant's agent Robert H. Frantz, held a telephone interview at the applicant's agents request in order to discuss applicant's opinion as to these differences between the cited art, our disclosed invention, and our proposed amendment:

- (1) Underwood's hierarchy of their site map is not "ephemeral" (e.g. temporary in its content), but is static until modified explicitly by the user. Our invention automatically adds recently used objects to our ephemeral list, and deletes older objects as the list grows to a maximum length. This allows the user to have a convenient list of the most-recently accessed object, from which he or she may access those objects again quickly. The user does not have to explicitly command the system to add or remove objects in the ephemeral list, this is done automatically as the user operates on each object.

Underwood's web site tool, though, requires the user to explicitly command the system to add a page to their hierarchical web site map. These pages remain in Underwood's map until the user explicitly commands the system to delete a page from the hierarchy. There is no correlation between the contents of Underwood's site map and the nature of the objects with respect to their being recently used or not (e.g. old objects and new objects are treated the same way).

It would be counter to the objectives of a web site designing tool, such as Underwood's tool, to only temporarily "add a calendar page" to the web site, and especially to organize it as a push-down, limited-depth list as we have described our preferred embodiment.

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- (2) If Underwood's hierarchical site map were actually a push-down, limited-depth stack such as our ephemeral list, adding a page to a web site which already had the maximum number of elements allowed would automatically "push" the oldest page out of their web site hierarchy, essentially automatically deleting the oldest page, which would render the Underwood system undesirable for its intended purpose. Underwood's hierarchical site map is not a push-down stack, though, but rather is a relatively static tree structure.

As such, modifying Underwood's hierarchical tree structure to be a ephemeral push-down, limited-depth stack structure would make the Underwood web site design tool undesirable for its intended purpose. Thus, there would be no motivation for one of ordinary skill in the art to modify Underwood to meet our claim limitations.

- (3) Underwood's system requires the user to explicitly command the system to take an action to modify their hierarchy of their site map, whereas our system automatically adds the most recently acted-upon object to our ephemeral list without requiring explicit user command to do so. It would be counter to the objectives of Underwood's system to automatically make changes to their hierarchical site map without the user's explicit commands was this would create branches and pages within a site structure out of the control of the user.

In the interview, Examiner and Applicant's Agent agreed that the proposed amendment would overcome the art of record. Examiner stated that a supplemental search in view of the amendment may be required, and agreed to call Applicant's Agent should there be any questions or suggestions following the supplemental search.

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In the Office Action, claims 1, 2, 5, 6, 9, 10, 13, 14, 17, 18, 21 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent 6,697,825 to Underwood, *et al.* (hereinafter “Underwood”).

In the rejection of our independent claims (1, 9, and 17), Underwood’s “hierarchy of the site map” was considered to be the same as our “ephemeral list”. We believe this is not a correct interpretation of Underwood’s hierarchical site map for the foregoing reasons stated in the Summary of Telephone Interview. In view of our present amendment, we request withdrawal of these rejections for the following reasons:

1. As described in the foregoing paragraphs, the modification of Underwood’s system in the manner suggested by the examiner would render the primary reference inoperable or unsatisfactory for its intended purpose. MPEP § 2143.01 states:

If [the] proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.

2. As described in the foregoing paragraphs, the modification of Underwood’s system in the manner suggested by the examiner would change the principle of operation of the primary reference. MPEP §2143.01 states:

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.

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3. As described in the foregoing paragraphs, the modification of Underwood's system in the manner suggested by the examiner not teach all the claimed elements, steps, or restrictions. MPEP §2143.03 states:

All Claim Limitations Must Be Taught or Suggested. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.

Because all other claim rejections with respect to the remaining dependent claims also rely upon the teachings of Underwood regarding an ephemeral list, all proposed combinations of Underwood with the other cited art (US Patent 6,701,350 to Mitchell, US Patent 6,216,139 to Listou, and US Patent 5,974,572 to Weinberg) fail to teach these steps, elements and limitations of our claims. For these reasons, we request withdrawal of the rejections of Claims 2 - 4, 7, 8, 10 - 12, 15, 16, and 18 - 20, 23, and 24.

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